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FINAL REPORT

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- [1](#)B. THE HAGUE 349
- [1](#)C. THE HAGUE 420
- [1](#)D. THE HAGUE 425

This is CWC-22-08.

SUMMARY

[1](#)1. (U) This cable is part of a series on the Second Chemical Weapons Convention Review Conference (RevCon) April 7-18, 2008. It follows the initial report at the end of the Conference (ref b), and reports on the opening plenary sessions of the Conference and the general debate (ref c) and events on the margins of the Conference (ref d). One more cable will follow focusing on the process during the Conference and lessons learned.

[1](#)2. (SBU) Negotiations at the OPCW Second Review Conference (RevCon) were characterized by a number of long-standing debates on issues of importance to States Parties, but there were also several contentious issues that received far less attention than expected. Iran, frequently assisted by India, South Africa and Pakistan, played its customary role, holding various sections of the text hostage until the eleventh hour and showing a particularly troubling desire to walk back agreed language from the First Review Conference. Despite Iranian objections, the de facto solution that developed for breaking through impasses was to fall back to either language from the First Review Conference or the Convention itself.

[1](#)3. (SBU) Overall, the final report of the RevCon met key U.S. objectives (ref a) in a number of areas and the U.S. Del successfully defended our red lines. The report reinforces commitment to all of the Convention's provisions, lays some groundwork for future evolution of the verification regime and solidly underlines the importance of national

implementation of the convention. The report acknowledges the impact of developments in science and technology on the work of the Organization and encourages States Parties to cooperate in mitigating the threat of terrorist use of toxic chemicals as chemical weapons, although both of these issues were watered down in the report by NAM and, especially, Iranian opposition.

¶4. (SBU) As was clear in the months leading up to the RevCon, the conference proved less an opportunity to propose new initiatives than a setting in which the U.S. and other like-minded delegations spent much of their time defending past achievements and fending off problematic NAM advances. What did not find its way into the report is as important as what did in many cases. References, oblique or direct, to "incapacitants"; non-compliance in 2012; and portrayal of the Australia Group as inconsistent with the CWC were either minimal or avoided altogether. The U.S. and allies also succeeded in denying new initiatives with respect to victims of chemical warfare (particularly, Iranian lobbying for compensation of their victims of Iraqi use of chemical weapons); an Article XI Action Plan; and unrestrained budget increases for International Cooperation and Assistance. Although not discernable as accomplishments in the final report, these were hard-won successes in the negotiations.

¶5. (U) The sections below follow the order of the RevCon agenda and final report.

THE ROLE OF THE CWC IN ENHANCING INTERNATIONAL PEACE
AND SECURITY AND ACHIEVING THE OBJECTIVES AS SET
FORTH IN THE PREAMBLE OF THE CONVENTION

¶6. (SBU) In the absence of a political declaration, the opening paragraphs of the substantive report (Agenda Item 9) serve as an overview of progress made, challenges confronting, and future work to be done on the topics covered by the articles of the CWC. The debate on this section by the Committee of the Whole reflected the parallel debate in the smaller negotiating group, with a few noteworthy exceptions. Iran introduced language on riot control agents (RCAs) and incapacitating agents up front, clearly unacceptable to the U.S. This was eventually replaced by compromise language that quoted verbatim the CWC's Article I undertaking not to use RCAs as a method of warfare. Iran also sought a declaration that the use of chemical weapons was "illegal under any circumstances," a characterization the U.S. considered inappropriate as it assigns the CWC the status of customary international law. Compromise language was adopted based on language in the Director General's statement to the conference that "an overwhelming majority of states consider chemical weapons...to be illegal and prohibited." India substituted "prohibited" for the DG's stronger term "immoral", creating the redundancy in the final version of the sentence.

¶7. (SBU) Despite numerous NAM attempts to delete all references to non-proliferation, a reference to the non-proliferation aims of the Convention was retained in the opening section. A paragraph noting the impact of scientific and technological progress and highlighting the role of the Scientific Advisory Board was also retained, despite a slightly surprising NAM reluctance to acknowledge any such impact.

¶8. (SBU) One very contentious topic was the role of the OPCW in the fight against terrorism. The debate was foreshadowed by a bitter fight on the agenda of

the RevCon, months before the conference itself. France and Algeria were particularly insistent that terrorism be given a separate sub-item; Iran and others were equally insistent that it not be mentioned. In the end, the Executive Council agreed to take terrorism off the agenda with a commitment by delegations that absence of any one topic (and citing terrorism as the prime example) from the agenda in no way precluded discussion or report language at the RevCon. In the pre-RevCon Open-ended Working Group, the Chair's drafts consistently referred to terrorism in the opening section. Despite bitter protests by Iran, a paragraph on terrorism was retained in the opening section throughout RevCon negotiations in the Committee of the Whole along with the understanding that it would also appear later in the report. A number of delegations had a strong interest in not only ensuring language on terrorism, but including a specific reference to UNSCR 1540.

¶9. (SBU) The Iranians were surprisingly flexible on a number of issues expected to generate far more debate in the RevCon. Instead, the Iranian "must-have" (or, in this case, must not have) that emerged was the deletion of any reference to UNSCR 1540 specifically, and the more general goal of minimizing references to the OPCW's role in the fight against terrorism. In the final hours of negotiation, Iran managed to eliminate all references to UNSCR 1540, leaving a paragraph on terrorism in the opening section that instead repeated language from the first Review Conference. This noted the increased danger of the

use of chemical weapons by terrorists, but referred to an EC decision from 2001 rather than any more recent action in the UN or the OPCW. The Iranians fought for and achieved that the only other paragraph on terrorism would appear in the final section of the report on the functioning of the Organization, that emphasized the OPCW's autonomy and merely "took cognizance of the resolutions of the United Nations on combating terrorism."

¶10. (SBU) From a U.S. perspective, the report's acknowledgement of the increased threat of terrorism coupled with the urging of cooperation to prevent terrorist acquisition of CW can be considered to have met our RevCon objectives on terrorism. However, the loss of the reference to UNSCR 1540 and a general weakening of the topic by burying it in last section was a significant disappointment to many delegations.

ENSURING THE UNIVERSALITY OF THE CWC

¶11. (SBU) The Universality section was one of the most non-controversial and extensively discussed sections of the Chair's text. Issues included whether to address by name the twelve states not party to the CWC, and how to encourage those that were already in the process of preparing to accede (para 9.16). The now common Iranian mantra of "States not Party whose non-adherence is a matter of serious concern," a transparent jab at Israel that they tried to insert in five places, was whittled down to two references in the final report. Another important accomplishment was ensuring that universality alone was not considered a panacea; and that full implementation of, and compliance with the Convention was also necessary. The NAM proposed dropping references to both compliance and implementation, for which the most vocal proponents were Iran, India and Pakistan. The U.S. delegation argued that it doesn't matter how many join "the club" if all members do not play by the rules. The final text of this section stresses that universality must be matched by full implementation.

GENERAL OBLIGATIONS AND DECLARATIONS RELATED THERETO

¶12. (SBU) Negotiations on this section covered several issues of significance for the U.S., and the final text may be more noteworthy for what it does not/not address. Switzerland, supported by Austria, Sweden, Norway, and to some extent Germany and the UK, proposed that the EC address new developments in the field of incapacitating agents. Iran additionally proposed that such new developments were a cause for concern which could be detrimental to the object and purpose of the Convention. The U.S. Delegation proposed compromise language, to which the Swiss attempted to add language regarding follow-on discussions. When this language, including the follow on, was addressed in the small negotiating group, the entire reference was dropped in response to U.S. and Russian objections.

¶13. (SBU) Pursuant to instructions, the U.S. Delegation proposed including language in this section confirming that the CWC prohibits any preparations by a States Party for the possible production or use of chemical weapons, including the development of plans for the mobilization of industrial or research facilities for such purposes. This proposal met with enthusiastic support from other WEOG delegations and strong resistance from NAM delegations and Russia. It was eventually dropped.

¶14. (SBU) The Chair's draft text also built in repetition of the comprehensive nature of the CWC's prohibitions throughout, which the U.S. and others strongly supported. Predictably, the NAM proposed deletion of most of these references. The final text retained one strong reaffirmation of the contentious definitions and their comprehensive nature and the General Purpose Criterion.

DESTRUCTION OF CHEMICAL WEAPONS AND DESTRUCTION OR
CONVERSION OF CHEMICAL WEAPONS PRODUCTION FACILITIES

¶15. (SBU) The NAM sought early on to characterize destruction as "core", "critical", "crucial", "fundamental", or any of a number of other adjectives to convey a sense of graduated levels of importance between the different treaty obligations. Balanced language was eventually found to underscore the importance of several obligations, instead of placing the disarmament objectives of the CWC above all others. The NAM, with the exception of India, also attempted to downplay the significant progress made so far by possessor states in destruction of their chemical weapons. Never one to settle for a single reference when a dozen will do, Iran also managed to work in an excessive number of references to the "final extended deadlines," awkward from a drafting perspective but adding no substantive difference.

¶16. (SBU) Having remained silent throughout the majority of the Open Ended Working Group meetings, Russia emerged as a surprisingly constructive ally on destruction. This was clearly the issue of importance for Moscow, and the Russian delegation was vocal and effective in pushing back on NAM attempts to inappropriately elevate the importance of Article IV and V obligations.

¶17. (SBU) The expected debate over what to do when one or more of the possessor states fail to meet the 2012 deadline was all but absent. This may be attributable, at least in part, to the Director-

General's early and clear statements that it would be premature to discuss possible non-compliance at this RevCon. His suggestion that a special session of the Conference of States Parties could be convened closer to 2012 may also have vented some of the steam that would otherwise have built on this issue.

¶18. (SBU) One paragraph that took a somewhat disproportionate role in the negotiations on this section was the reference to the EC visit to Anniston. The debate took shape much as it did during EC-52, with WEOG delegations attempting to characterize the visit(s) as valuable, the NAM insisting upon "expressing concern" in an attempt to call into question the utility of a process already set in motion by a CSP-11 decision, and the U.S. probably taking a fairly passive role. The final language did little more than acknowledge that the visit had occurred.

VERIFICATION ACTIVITIES OF THE OPCW

¶19. (SBU) From an organizational perspective, the placement of Verification after Destruction was illogical and made for a less cohesive text. This was an unfortunate carryover from the agenda debate, and a transparent play by the NAM to give destruction optical as well as substantive preeminence.

¶20. (SBU) Several of the U.S. objectives for verification fell under the broader category of adapting the verification regime to address changes in technology, chemical industry, and the threat posed by terrorist use of toxic chemicals. Debate on this section of the report centered on a desire by WEOG, Japan and others to point to the need for a continuing evolution of the verification regime. In almost direct opposition was a NAM effort to portray the verification regime as having met the requirements of the Convention, thus implying further work or adaptation to an ever-changing environment would be unnecessary. The final report language struck a balanced tone, acknowledging the progress made thus far and the need for further evolution.

ACTIVITIES NOT PROHIBITED UNDER THE CWC

¶21. (SBU) Discussion in this area was noteworthy because of the U.S. objectives that were maintained in the report, despite significant disagreement by the NAM and associated States Parties. Also, several subjects of significant NAM input were condensed to manageable report elements. Some examples follow.

¶22. (SBU) The NAM's insistence on using the term "hierarchy of risk" in relation to Scheduled chemicals and the verification activities that result from such declarations was successfully fought back. The "hierarchy" term is not used in the report at all. Although paragraph 9.54 of the report speaks to the risk posed by the Scheduled chemicals (as laid out in the language of the Annex on Chemicals), it clearly points out that the risk from the various chemicals is only one factor considered in the selection of a plant site or facility for inspection. Also, early NAM drafts stated that there is no risk associated with discrete organic chemicals, an idea which was successfully removed from the report.

¶23. (SBU) In addition, it was possible to successfully maintain the inspections statistics laid out in paragraph 9.55. The NAM's efforts to remove the percentages that demonstrate the significant

under-inspection of OCPF plant sites were overcome, and these statistics were maintained.

¶24. (SBU) Despite a significant effort by the NAM and others to reduce the importance of discussions on developments in science and technology, several references were preserved throughout the report, including in paragraph 9.58 of this section.

¶25. (U) In paragraph 9.60, the importance of timely submission of declarations was captured, and the EC-51 decision on this matter was cited.

¶26. (SBU) Discussions in the late run-up to the Review Conference saw Iran starting to express some interest in adding language to the report on the topic of low concentration thresholds for Schedule 2A/2A* chemicals. This may have just been done in an effort to try to muddy the waters for the WEOG delegations and Japan, those most interested in the matter and still in disagreement on a solution. In the end, Iran made no more mischief on the matter. Canada's call for report language that would put in place an interim declaration requirement (based on the last facilitator's draft from the fall of 2006), although supported from the floor by a large number of WEOG delegations, was quickly cut down by the German delegation. In the end, an expression of concern and an urging to resume work promptly were all that ended up in the report.

¶27. (SBU) On the various topics under consideration

regarding OCPF declarations, nothing in the report caused any damage to U.S. objectives. The report calls for early resumption of consultations on the selection methodology, citing the relevant paragraphs of Part IX of the Verification Annex. However, language specifically focusing on proposals by States Parties (element c of paragraph 11) was not achieved. There was significant concern by India about any mention of efforts to improve OCPF declarations to enable focusing verification activities on the most relevant plant sites, but eventual language making it clear that this would be done without imposition of any additional declaration obligations allowed this concept to be captured in the final report.

¶28. (SBU) Despite the usual blustering from Iran, report language on transfers of Schedule 3 chemicals to States not Party made no movement toward the ban Iran wants. In the end, the report does nothing more than reaffirm and reference the EC-47 decision. In early sidebar conversations, an Iranian delegate confided to Delrep that some of the biggest concerns in this area (meaning transfers to Israel) come from some of their NAM colleagues -- China and India.

NATIONAL IMPLEMENTATION MEASURES

¶29. (SBU) The discussions in the area of national implementation (Article VII) fell along historical lines, with WEOG delegations and many others calling for continued work toward all States Parties meeting their obligations and the NAM calling simply for further encouragement. Many of the comments by Iran and India in the final run-up to the Review Conference gave the impression that they would try to truncate the Article VII Action Plan by focusing future work solely on the TS reporting elements (i.e., States Parties notifying the TS of their efforts, however minimal). There was also an expectation that, as had been attempted previously, the NAM would try to barter continued work on Article VII for an Action Plan for Article XI. None of these concerns became reality.

¶30. (SBU) In the end, the report captured U.S. objectives by highlighting the need for a comprehensive approach to the enactment of implementing legislation, filling gaps in legislation, and ensuring that legislation fully reflects CWC prohibitions. The report also retained statistics regarding progress to date, something the NAM had fought to remove in hopes of minimizing the importance of these issues. In national statements and within the meeting of the Committee of the Whole, a number of normally quiet delegations (particularly within the GRULAC) spoke about the importance of Article VII efforts.

¶31. (U) This section of the report, interestingly, also captures language on a number of other important elements as they relate to Article VII, i.e., changes in the security environment, changes in science and technology, and terrorism.

CONSULTATIONS, COOPERATION AND FACT FINDING

¶32. (SBU) The debate on Article IX followed traditional lines. The NAM, China and Russia implied that a challenge inspection could not be launched without either exhausting all other Article IX options first or resolving the "unresolved issues" from the Preparatory Commission. The U.S., WEOG and others insisted that States Parties had the right,

without prejudice, to request a challenge inspection. The inevitable result was a fairly neutral text that met U.S. objectives by reaffirming the right of States Parties to request a challenge inspection and continuing the TS mandate to maintain a high standard of readiness to conduct a challenge inspection. Of note, however, was a slight shift in the characterization of the "unresolved issues." The report of the First RevCon simply requested the Council to resolve these issues expeditiously; the new report repeated this but additionally noted that their resolution "is important for challenge inspections."

ASSISTANCE AND PROTECTION AGAINST CHEMICAL WEAPONS

¶33. (SBU) Like destruction, Article X was another area more noteworthy for the debate that did not occur. Having assured delegations for weeks before the RevCon that they would "have some additional language" on assistance for victims of chemical warfare, the Iranians came forward fairly late with language that was clearly unacceptable to any delegation but their own. However, in discussion of this section of the report, most of these proposals dropped out with little or no protest. This was particularly surprising given the presence of Iranian victims of chemical warfare at the World Forum Convention Center manning an exhibit and setting the stage to somehow transform the tragedy of the Iraqi attack on Iran into an OPCW responsibility. In the final report, the reference to victims was essentially a restatement of the CSP-12 decision, although this was complemented by Iranian language on "ensuring the availability of adequate resources" for the Director General to take measures of assistance for victims. Even this was caveated as emergency assistance, thus not a real victory for Iran.

¶34. (SBU) Despite its length and repetition, this section covered little else of substance. However, two other themes did emerge. One was an effort to broaden the mandate of Article X assistance,

ostensibly only to cover incidents of terrorist use of toxic chemicals, but several proposals veered uncomfortably close to establishing a mandate for the OPCW in the case of industrial accidents. The connection between assistance and protection under Article X and the OPCW's role in the fight against terrorism was also evident. Despite resistance to acknowledgement of terrorism in the report as a whole, and certainly to any mention of UNSCR 1540, Iran allowed a specific reference to terrorists in the Assistance and Protection section.

ECONOMIC AND TECHNOLOGICAL DEVELOPMENT

¶35. (SBU) Despite concerns that virtually every other section of the report would be held hostage to demands for an Article XI Action Plan, and a particularly problematic NAM alternative text for this section, the final text on Economic and Technological Development was far more reasonable than expected. The debate ran along familiar lines, with the NAM calling for an almost unlimited and ever-increasing pool of financial and human resources to be devoted to international cooperation, in contrast to developed countries seeking to ensure relevant programs were carried out within reasonable guidelines and with objective assessments of effectiveness and efficiency. The usual sub rosa Iranian/Cuban attack on the Australia Group as inconsistent with the provisions of the Convention

was also present, but did not play a particularly significant role in the negotiations.

¶36. (SBU) NAM alternative text sought rather blatantly to create new obligations where none existed in the Convention, and also to claim that international assistance needs, defined vaguely if at all, were not being met. The final text, however, reflected their reluctant acceptance that assistance to States Parties in fulfilling their CWC obligations was in fact valuable assistance under Article XI.

ARTICLES XII TO XV AND FINAL CLAUSES

¶37. (SBU) This paragraph was never contested. There was some concern initially that Iran would try to use the provisions of Article XII to set the stage for accusing the U.S. of being in non-compliance with the Convention after April 2012 because of ongoing destruction efforts. Those concerns never materialized.

THE PROTECTION OF CONFIDENTIAL INFORMATION

¶38. (SBU) This was another relatively non-controversial section of the report. There was some unexpected resistance to language welcoming the progress made on the Verification Information System, which may have been based on actual concerns regarding the protection of electronically submitted data, but also seemed to be in keeping with a general refusal on the part of the NAM to acknowledge positive steps or progress in any area since the First RevCon. One practical step forward in this new text was to request a recommendation from the Secretariat on the long-term handling of confidential information, an issue that languished in consultations for years, thanks to Iran.

THE GENERAL FUNCTIONING OF THE OPCW

¶39. (U) In addition to covering some of the more administrative aspects of the Organization, this section of the report also became the de facto recipient of other issues that were either too contentious or not significant enough to receive their own heading. Terrorism, falling into the first category, was relegated to a mention here. Language on the Scientific Advisory Board (SAB), focusing primarily on procedure as opposed to substance, also landed here and seemed to serve as a substitute for a more in-depth assessment of the impact of advances since the First RevCon in science and technology on the work of the Organization.

¶40. (SBU) Compromise language on the SAB gave India and Iran the "meeting of government experts" that they both sought to discuss the SAB's report to the RevCon. While many viewed a similar meeting that had been held in conjunction with the First RevCon to have been a colossal waste of time and energy, the compromise limited the exercise to one meeting as opposed to setting up a standing body as envisaged by India. The compromise further prevented the SAB's future work from falling victim to this practice, instead requesting the Director-General to provide advice on the best way to enhance interaction between the SAB and States Parties in the future. In keeping with a U.S. proposal, SAB language also called for increased funding of the SAB through the regular budget to include two regular meetings annually, as

well as two meetings annually of SAB temporary working groups.

¶41. (SBU) The sole reference to terrorism stressed the OPCW's independence before simply taking cognizance of UN resolutions on combating terrorism. Previous French insistence for stronger language on terrorism was placated with a reference to the Open-ended Working Group on Terrorism, which is chaired by France.

¶42. (SBU) In discussions of TS staffing, a familiar developed/developing world debate also played out in characterization of the attention that should be given to equitable geographical representation. The report also recognized, in light of the tenure policy, the need to maintain a high level of expertise, specifically CW-related.

¶43. (U) Javits sends.
Gallagher